

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:16-CV-00861-GCM**

ROBERT C. BARCHIESI, and LEJLA)
HADZIC, Individually and in a)
representative capacity on behalf of a class)
of all persons similarly situated,)
)
Plaintiffs,)
vs.)
)
CHARLOTTE SCHOOL OF LAW, LLC)
and INFILAW CORPORATION,)
)
Defendants.)
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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:17-CV-00190-GCM**

SPENCER KREBS, et al.,)
)
Plaintiffs,)
vs.)
)
CHARLOTTE SCHOOL OF LAW, LLC, et)
al.,)
)
Defendants.)
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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:17-CV-00026-GCM**

RAISSA LEVY, JAMES VILLANUEVA,)
SHANNA RIVERA, and ANDRÉ)
MCCOY, individually and on behalf of all)
similarly situated persons,)

Plaintiffs,)
vs.)

CHARLOTTE SCHOOL OF LAW, LLC,)
and INFILAW CORPORATION,)
Defendants.)

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:17-CV-00039-GCM**

LEAH ASH,)
Plaintiff,)
vs.)

CHARLOTTE SCHOOL OF LAW, LLC,)
INFILAW, INC., and DOES 1 – 20, et al.,)
Defendants.)

**MEMORANDUM OF LAW IN SUPPORT OF
CONSENTED TO MOTION FOR COURT ORDER
ALLOWING DEFENDANTS TO RELEASE EDUCATION RECORDS
UNDER THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

Pursuant to Local Rule of Civil Procedure 7.1 and the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §§ 1232g(b)(2) and 1232g(d), Defendants move this Court to enter an order allowing Defendants to release education records protected under FERPA to Plaintiffs and their counsel in this litigation. Pursuant to Local Rule of Civil Procedure 7.1(b),

on January 23, 2018, Defendants conferred with Plaintiffs. Plaintiffs consent to this Motion. In support of this Motion, Defendants state as follows:

1. On December 13, 2017, Plaintiffs¹ served Defendants with their First Set of Requests for Production of Documents. Discovery officially began on December 18, 2017, when this Court entered a Pretrial Order and Case Management Plan. LCvR 26.1; *Barchiesi*, DE 74; *Krebs*, DE 120; *Levy*, DE 80; *Ash*, DE 27. On January 16, 2018, Plaintiffs served Defendants with their Second Set of Requests for Production of Documents (together with the First Set of Requests for Production of Documents, the “Requests”).

2. Plaintiffs’ Requests seek documents that include “education records” as defined by FERPA, 20 U.S.C. § 1232g(a)(2)(4)(A), from former Charlotte School of Law (“CSL”) students.

3. Under the present circumstances, there are two applicable options under FERPA, 20 U.S.C. § 1232g(b)(2), for release of the student education records. FERPA permits Defendants to release student education records: (1) pursuant to a judicial order, provided that students are notified of such order in advance of the release of the education records; or (2) with the student’s consent. 20 U.S.C. § 1232g(b)(2).

4. Documents responsive to the Requests or pertinent to efforts to settle this litigation will contain education records from former CSL students. It would be impractical and unduly burdensome for Defendants to obtain consent to release education records from thousands of former students who attended CSL. Additionally, attempting to obtain consent from all former CSL students would dramatically delay Defendants’ production of documents.

¹ “Plaintiffs” refers to plaintiffs in *Barchiesi v. Charlotte School of Law*, Case No. 3:16-CV-00861-GCM, *Krebs v. Charlotte School of Law*, Case No. 3:17-CV-00190-GCM, *Levy v.*

FERPA would require Defendants to wait for each student to sign and return a consent form for the release of records before it would allow Defendants to disclose these documents to Plaintiffs.

5. Therefore, Defendants request that this Court enter an order permitting Defendants to release education records to Plaintiffs and their counsel in the Actions.² Pursuant to the governing Protective Order,³ “[a]ny information or documents that are subject to the Family Educational Rights and Privacy Act (“FERPA”) are considered confidential with such exceptions as noted within the statute itself.” Protective Order, ¶ 7.

Charlotte School of Law, Case No. 3:17-CV-00026-GCM, and *Ash v. Charlotte School of Law*, Case No. 3:17-CV-00039-GCM (collectively, the “Actions”).

² CSL will notify former students of this Court’s order in advance of release of the education records by sending a copy of the Court’s order to former students.

³ *Barchiesi*, DE 72, ¶ 7. In accordance with the Protective Order’s case caption, the Protective Order also applies to *Krebs*, *Levy*, and *Ash*.

This the 26th day of January.

Respectfully submitted,

Cooley LLP

/s/ David E. Mills

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CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, a true and correct copy of the foregoing was filed with the Clerk of Court through the CM/ECF system, which will send electronic filing to all counsel or parties of record on the service list below:

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